

REMARKS

Reconsideration in view of the foregoing amendments and following remarks is respectfully requested.

This amendment is filed in response to the Office action mailed January 04, 2006, in the above referenced application. With this Amendment, claims 1-8 and 10, previously withdrawn from consideration, are canceled as now required by the Examiner. Claims 9 and 11-24 remain pending in this application. Applicants reserve the right to resubmit the canceled claims in a continuation or divisional application.

As explained in previous amendments, the problem of inadvertent presence or inclusion of oxygen is a particular problem for the Applicants since an undesired gaseous oxygen contaminant instead of the desired gaseous carbon dioxide normally included within Applicants' distal occlusion inflation device can lead to a deadly patient embolism should a leak occur during use of the distal occlusion inflation device. (Note page 12 of the substitute specification.) Thus, Applicants are dealing with a far different situation than that addressed by the prior art that has been focused upon in the prosecution of this application.

In the Office action, claims 9, 11-14 and 18-24 were rejected under 35 USC 103 over George (USP 5,014,494) in view of Erbe et al. (USP 6,736,799). In justifying the rejection of independent claim 9 directed to "A storage arrangement for oxygen-sensitive products including provision for indicating the presence of oxygen", the Examiner relied primarily upon George. (Similarly, independent claim 23 is also directed to "A storage arrangement for oxygen-sensitive products including provision for indicating the presence of oxygen.") George, as explained by the Examiner, discloses "several polymer plastics by example which are known to yellow post gamma radiation." However, George notes in his abstract that replacing oxygen with nitrogen

prior to sterilizing prevents most brittleness and discoloration. In the technical field portion of the patent, George teaches that syringes should not be subject to yellowing. Repeatedly in his patent, George teaches that yellowing discoloration is undesirable and avoidable. Rather than inherently disclosing the concept of the invention, George is clearly teaching away from utilizing discoloration because discoloration is undesirable and should be avoided.

One of ordinary skill reading the teachings of George regarding the undesirable and avoidable discoloration change subsequent to sterilization by simple nitrogen replacement of oxygen, would not lead to employ such avoidable yellowing or discoloration as a provision for indicating the presence of oxygen. It is also respectfully submitted that the possible inclusion of more than one medical article to be sterilized does not alter George's teaching away from discoloration and how such discoloration is to be avoided. Such a teaching away by George would also not lead one of ordinary skill to look to Erbe et al., column 7, for a syringe formed of Dow 2081 polycarbonate, and then use such a syringe, counter to the teachings of George, in a new manner previously regarded as not useful, thereby serving as a provision for indicating a flaw in the packaging methodology of George.

The need for and usefulness of incorporating a provision for indicating the presence of oxygen in a storage arrangement of the type recited in claim 9 was not recognized by George, and certainly not recognized by Erbe et al. With respect to claim 12, Erbe et al. teaches that a syringe may be formed of Dow 2081, not that a syringe of Dow 2081 should also be "fixed" inside a sealable container, thereby serving as a provision for indicating the presence of oxygen. Nor is there any suggestion in George to "fix" anything intended as an oxygen-sensitive material. George teaches avoiding discoloration and does not

teach "fixing" distinct materials. Neither George nor Erbe et al. teach nor suggest operable positioning nor focus on increasing visibility. Presumably, such teachings are missing because they do not teach a storage arrangement including a provision for indicating the presence of oxygen. Reconsideration and allowance of claims 9, 11-14 and 18-24 are respectfully requested.

Claims 15-17 were also rejected under 35 USC 103 over George, in view of Erbe et al., and further in view of Nicolais (USP 6,161,695), Ahlqvist et al. (USP 5,881,534) and the official notice of the Examiner. The Examiner again relies primarily upon George, which teaches that polymer discoloration is both avoidable and undesirable. Such teachings, however, are counter to a motivational basis for including a provision for indicating the presence of oxygen which employs discoloration. Clearly, George teaches away from the usefulness of discoloration, and the avoidance of discoloration demonstrates that one of ordinary skill would not look to Erbe et al., Nicolais, and the Examiner's notice for a solution which uses discoloration. Reconsideration and allowance of claims 15-17 is respectfully requested.

If there are any further issues yet to be resolved to advance the prosecution of this patent application to issue, the Examiner is requested to telephone the undersigned counsel.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,

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